

§ 40.21

does not include the farming or growing of tobacco or the handling of tobacco solely for sale, shipment, or delivery to a manufacturer of tobacco products or processed tobacco, nor does the processing of tobacco include curing, baling, or packaging activities. For purposes of this definition, the processing of tobacco includes, but is not limited to, stemming (that is, removing the stem from the tobacco leaf), fermenting, threshing, cutting, or flavoring the tobacco, or otherwise combining the tobacco with non-tobacco ingredients.

Removal or remove. The removal of tobacco products or cigarette papers or tubes, or any processed tobacco from the factory or release from customs custody, including the smuggling of other unlawful importation of such articles into the United States.

Roll-your-own tobacco. Any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes or cigars, or for use as wrappers of cigars or cigarettes.

Sale price. The price for which large cigars are sold by the manufacturer, determined in accordance with § 40.22 and used for computation of the tax.

Service center. An Internal Revenue Service Center in any of the Internal Revenue regions.

Service center director. A director of an internal revenue service center.

Sets. Any collection, grouping, or packaging of cigarette papers made up by any person for delivery to the consumer as a unit.

Small cigarettes. Cigarettes weighing not more than three pounds per thousand.

Small cigars. Cigars weighing not more than three pounds per thousand.

Smokeless tobacco. Any snuff or chewing tobacco.

Snuff. Any finely cut, ground, or powdered tobacco that is not intended to be smoked.

Special tax. The special (occupational) tax on manufacturers of tobacco products, manufacturers of cigarette papers and tubes, and export warehouse proprietors, imposed by 26 U.S.C. 5731.

27 CFR Ch. I (4–1–11 Edition)

This chapter. Title 27, Code of Federal Regulations, chapter I (27 CFR chapter I).

Tobacco products. Cigars, cigarettes, smokeless tobacco, pipe tobacco, and roll-your-own tobacco.

Treasury Account. The Department of the Treasury's General Account at the Federal Reserve Bank of New York.

TTB. The Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury

U.S.C. The United States Code.

(26 U.S.C. 7805 (68A Stat. 917), 27 U.S.C. 205 (49 Stat. 981 as amended), (82 Stat. 959), and Sec. 38, Arms Export Control Act (90 Stat. 744) Aug. 16, 1954, ch. 736, 68A Stat. 775, as amended (26 U.S.C. 6301); June 29, 1956, ch. 462, 70 Stat. 391 (26 U.S.C. 6301))

[T.D. ATF-48, 43 FR 13553, Mar. 31, 1978]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 40.11, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

Subpart C—Taxes

§ 40.21 Cigar tax rates.

(a) Cigars are taxed at the following rates under 26 U.S.C. 5701(a):

Type and amount	Tax rate for removals during the following periods:	
	2002 to March 31, 2009	April 1, 2009 and after
Small cigars per thousand	\$1.828	\$50.33
Large cigars*		
• percentage of sale price.	20.719%	52.750%
• but not to exceed—	\$48.75 per thousand.	\$0.4026 per cigar.

*For large cigars: Until March 31, 2009, the percentage tax rate applies when the sale price is \$235.294 per thousand or less, and the flat tax rate applies when the sale price is more than \$235.294 per thousand. On and after April 1, 2009, the percentage tax rate applies when the sale price is \$763.222 or less per thousand cigars, and the flat tax rate applies when the sale price is more than \$763.222 per thousand cigars.

(b) See § 40.22 of this part for rules concerning determination of sale price of large cigars.

(c) Cigars not exempt from tax under 26 U.S.C. chapter 52 and the provisions of this part which are removed but not intended for sale shall be taxed at the same rate as similar cigars removed for sale.

[T.D. ATF-420, 64 FR 71939, Dec. 22, 1999, as amended by T.D. TTB-75, 74 FR 14481, Mar. 31, 2009]